

March 6th, 2008

The Federal Communications Commission

RE: Exclusive Contracts – please include in the record for FCC 07-32, MB 07-51

Dear ,

Please accept this letter as a follow up to my previous letter dated July 9th, 2007 supporting carve outs for Private Cable Operators from the ban on Exclusive Contracts (ECs) in MDUs.

Two points I would like to make in this letter. First I want to clarify why PCOs should be treated separately from DBS operators. While you would be correct in your assumption that some arrangements between PCOs and DBS operators are nothing more than commissioned sales agents for the DBS operator please keep in mind we actually do have true wholesale arrangements between Dish Network and PCOs. In the commissioned sales agent arrangements the subscriber literally signs a subscription agreement with the DBS provider and the PCO is paid a commission from the DBS provider. I would agree that these arrangements would not deserve a carve out of the ECs. However, Dish in particular has designed a truly wholesale platform where the entire subscription transaction and relationship is between the PCO and the subscriber. While Dish does benefit from this arrangement PCOs would be more than willing to enter into similar arrangements with MSOs. Historically MSOs have rejected this proposition since they are obviously protecting their overwhelming market share. I believe it would be fair and reasonable to allow EC carve outs to PCOs utilizing a wholesale arrangement.

The second point I want to make is that if the FCC does ban ECs across the board without carving out PCOs this opens the door for the MSO to completely eliminate any PCO competition by merely overbuilding and offering an extended promotional price thus snuffing out PCOs. While a ban on ECs would help AT&T and Verizon in their markets, which is a very small footprint, it would devastate the rest of the market that has no RBOC extending fiber. A case in point, I alluded to this in my prior letter, Qwest has now formally told investors that they are out of the video market, their only video solution is as a reseller of DIRECTV. Qwest with their size and technology has come to the realization that displacing an incumbent operator is a very expensive and difficult process. If ECs are banned across the board this leaves the MSOs, in the Qwest fourteen State area for example, virtually unchallenged in the MDUs, but for PCOs.

PCOs need your foresight and judgment to carve out ECs to give us a chance to bring competition to the MDUs. I can't emphasize enough how critical ECs are to our survival.

Sincerely,

Don Bowen
President
Convergent Broadband Communications, Inc. (CBC)